

REMARKS

Claims 1-3, 5-14 and 16-21 are currently pending in the application. Claims 22 and 23 have been added. The Final Office Action (F.O.A.) dated May 13, 2008 (Paper No. 20080511) objects to the Specification for failing to provide proper antecedent basis for the claimed subject matter. In a related issue, the FOA rejects claims 20 and 21 under 35 U.S.C. §112, ¶1 as failing to comply with the written description requirement. Further, claims 1-3, 5-14 and 16-21 under 35 U.S.C. §102(b) as being anticipated by Hoehn-Saric et al. (U.S. Patent No. 5,915,973; hereinafter referred to as “Hoehn-Saric”).

Objections to the Specification and Rejections Based Upon 35 U.S.C. §112, ¶1

The FOA objects to the Specification for failing to provide proper antecedent basis for the claimed subject matter. In a related issue, the FOA rejects claims 20 and 2 under 35 U.S.C. §112, ¶1 as failing to comply with the written description requirement. Since these are related issues, they will be addressed together. In addition, claims 1, 8 and 14 have been amended to include the subject matter and the remarks below describe the support in the Specification for the amendments. Support for new claims 22 and 23 is located in Figure 8B and ¶[0047].

Specifically, the FOA contends that there is insufficient support in the Specification for the claim limitations “recording in the transcript at least one video image of the student recorded at a time other than during the exam” and “storing within the transcript at least one video image of the student recorded at a time other than during the exam.” The Specification states the following:

An image file 928 depicts a still photo of the student taken just before the exam, and image file 930 contains images of student taken at random during the exam. The exam result is displayed on a transcript 926 which may also contain image 928 of the student along with identification information such as the student's name and address etc.

(¶[0052], lines 8-14). Clearly, image file 928 is an image of the student, stored in the transcript and taken at a time other than the exam, i.e. “just before the exam,” which is not “during the exam.” This sufficiently supports the claimed limitation. Further, image 928 is illustrated as

distinct from images 930, which are described as “taken at random during the exam.” Therefore, image 928 has not been taken at random during the exam.

In addition, **Figure 9A** illustrates a student image 910 that is stored in the transcript and used for “verification of the student’s identification if necessary” (¶[0051], lines 6-8). Not only is image 910 distinct from images 916, which are described as “images of the student taken during the exam” (¶[0051], lines 6-10), image 910 simply could not be used for identification verification purposes if it was taken at the same time as the other pictures. Applicants contend that the term “additional” only implies that images 910 and 916 are both images and not that both images 910 and 916 are taken during the exam. Otherwise, there would be no need to illustrate image 910 separately from images 916 and image 910 could not be employed for verification purposes. Therefore, Applicants’ Specification includes sufficient support for the claimed subject matter and Applicants respectfully request withdrawal of both the Objections to the Specification and the §112, ¶1 rejections or claims 21 and 22.

Rejections Based Upon 35 U.S.C. §102(b)

Claims 1-3, 5-14 and 16-21 under 35 U.S.C. §102(b) as being anticipated by Hoehn-Saric. Briefly, Hoehn-Saric is directed to a system for the administration of a test. There is simply no suggestion in Hoehn-Saric of either “registering at least one exam” (claims 1, 8 and 14) or “providing an exam content generator” (claims 2, 9 and 15). With respect to Applicants’ “registering at least one exam,” the F.O.A. cites the following portion of Hoehn-Saric:

The registration station comprises (a) a data processor for processing and verifying registrant data, (b) storage means for storing data sufficient to verify registrant data, and operably connected to the processor, (c) a biometric measurement device for inputting registrant biometric data; and (d) communication means for communicating verified test registration data, including verified biometric data to the central station.

(col. 3, lines 1-15). Clearly, this excerpt describes registering a registrant, i.e. a test taker, rather than an exam. With respect to Applicants’ “providing an exam content generator,” the F.O.A. cites the following portion of Hoehn-Saric:

The test question data is stored at the central station 1 for security purposes, and communicated to testing station 3 at an appropriate point in the testing process, as will be discussed below...

If the communicated test taker biometric data matches the verified biometric data corresponding to the proper registrant (step 67), then test question data is communicated to remote test site 3 (step 69). Steps 70, 71 and 73 represent the entry of test response data by the test taker in response to question data displayed in display 32. If at any point during the entry of test response data an invalidating event occurs (step 72), as determined by analysis of the proctoring data, then the testing event is stopped and/or invalidated (step 68).

(col. 7, line 13 through col. 8, line 60). Again, there is no mention of test generation, merely test question transmission and test taking.

"In fact, Hoehn-Saric is focused entirely on taking a test rather than the generation and registering of a test. There is simply nothing in Hoehn-Saric to teach or suggest the exam content generation aspects of Applicants' claimed subject matter. New claims 22 and 23 have been added to focus on these aspects of Applicants' disclosed technology."

For the reasons stated above, independent claims 1, 8, 14 and 22 are allowable and Applicants respectfully request withdrawal of the §102(b) rejections. Each of dependant claims 2, 3, 5-7, 9-13, 16-21 and 23 are allowable at least for the fact that they each depend upon one of the allowable independent claims and Applicants request that these rejection be withdrawn as well.

CONCLUSION

For the reasons stated above, Applicants respectfully request withdrawal of the §112, ¶1 rejections of claims 20 and 21 and the 102(b) rejections of claims 1-3, 5-14 and 16-23. It is respectfully submitted that all issues and rejections have been adequately addressed and that pending claims 1-3, 5-14 and 16-22 are allowable and that the case should be advanced to issuance. If the Examiner has any questions or wishes to discuss the claims, the Examiner is encouraged to call the undersigned at the telephone number indicated below. A Request for a One-Month Extension of Time is being filed and paid for electronically in conjunction with this Response so that Applicants have until September 13, 2008 to respond and file a Request for

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Continued Examination. It is believed that no other fees are due with the filing of this Response. However, should any other fees be due, the Commissioner is hereby authorized to charge such fees to the deposit account of IBM Corporation, Deposit Account No. 09-0447.

Respectfully submitted,

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